

Leave and Absences

Hours of Duty, Absences, and Leave

Summary of Changes. This regulation establishes policy and procedures for Hours of Duty, Leave and Absences for California National Guard technician program. It replaces the Technician Personnel Manual, Chapter 6, dated Mar 2000.

Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and Air National Guard technicians and to commanders, managers, and supervisors (military or civilian) with authority or responsibility over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulation.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

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1. Purpose.

This technician personnel regulation establishes the guidelines regarding hours of duty, absences, and leave within the California National Guard military technician program.

2. References.

Section 6323 of Title 5, United States Code, and Part 630 of Title 5, Code of Federal Regulations (CFR), establish the statutory and regulatory authority for hours of duty, use of leave, and absences.

3. Hours of Duty.

- a. Full-time technicians are scheduled for a total of 80 hours per pay period.
- b. There are 26 bi-weekly pay periods in a work year.
- c. Work schedules and changes are made by The Adjutant General in conjunction with local unions.
- d. Technicians are allowed two 15 minute rest breaks (paid as part of the workday). Rest breaks may not be a continuation of the lunch period or used as the last 15 minutes of the day. The rest period will not exceed 15 minutes during each 4 hours of continuous work.
- e. Lunch periods are established by supervisors and are limited to 30 minutes (unpaid).

4. Holidays.

- a. All technicians are eligible to receive basic pay for holidays. Technicians who are required to work on holidays are entitled to holiday premium pay. Applicable holidays for technicians will be published in a Directorate for Human Resources Technician/AGR Administrative Instruction (TAAI) annually.
- b. Federal holidays are:
 - (1) New Year's Day – First day of January
 - (2) Martin Luther King's Birthday – Third Monday in January
 - (3) President's Day – Third Monday of February
 - (4) Memorial Day – Last Monday of May
 - (5) Independence Day – Fourth day of July
 - (6) Labor Day – First Monday of September
 - (7) Columbus Day – Second Monday of October
 - (8) Veterans' Day - Eleventh day of November
 - (9) Thanksgiving Day – Fourth Thursday of November
 - (10) Christmas Day – Twenty-fifth day of December

5. Annual Leave.

- a. All permanent and indefinite technicians are eligible to earn annual leave. Temporary technicians who are appointed to positions over 90 days are entitled to earn annual leave upon completion of the first biweekly pay period. Temporary employees who are appointed for 90 days or less are not entitled to annual leave. However, when temporary appointments of less than 90 days cumulatively exceed 90 days (extension of appointment) without a break in service, the technician is entitled to annual leave. In such cases the technician accrues leave retroactively to the effective date of the initial appointment.
- b. Full-time technicians earn annual leave as follows:
 - (1) Technicians with less than 3 years of service earn 4 hours annual leave each bi-weekly pay period (104 hours each leave year).
 - (2) Technicians with three years but less than 15 years service earn 6 hours annual leave each bi-weekly pay period, plus an additional 4 hours the last pay period of each calendar (160 hours each leave year).
 - (3) Technicians with fifteen or more years of service earn 8 hours each bi-weekly pay period (208 hours each leave year).
- c. The following types of service are creditable for determining the leave earning category (4, 6, or 8 hour category):
 - (1) Permanent CSRS or FERS service.
 - (2) Indefinite CSRS or FERS service.
 - (3) Non-deduction (temporary) civilian service.
 - (4) Active military service performed under Title 10 USC.
 - (5) Active military service performed under Title 32 USC which meets all of the following criteria:
 - (a) Interrupts creditable civilian service.
 - (b) Is performed under Section 316, 502, 503 or 504 or 505 of Title 32.
 - (c) Return to technician status if after 2 Aug 90.
- d. Newly hired technicians are required to provide a DD 214 for all active duty service and to annotate all prior creditable Federal service on the Standard Form 144.
- e. Annual leave is provided to allow technician's periods of relaxation and to provide short periods of time off for personal and emergency purposes. Supervisors have the responsibility to decide when the leave may be taken based on the needs of the organization and mission. Supervisors are responsible for insuring that annual leave is scheduled

for use to prevent any unintended loss at the end of the leave year. If a severe work crisis should arise, supervisors may cancel scheduled leave.

f. A maximum of 240 hours of annual leave may be carried over to a new leave year.

g. Annual leave forfeited because of sickness, administrative error, or exigencies of the public business may be restored (Public Law 93-181). If annual leave is forfeited because the technician could not be excused from duty and there was no reasonable alternative to canceling the scheduled leave, a request for restoration may be submitted to the Directorate for Human Resources. This request must include the following:

- (1) Written verification of scheduling, rescheduling of the annual leave.
- (2) Reason(s) for subsequent and canceling of approved leave.
- (3) The exact number of hours requested to be restored the first pay period of the new leave year.

h. Technicians are entitled to receive a lump sum payment for all accrued annual leave upon separation from technician employment. If the technician leaves to accept a position in another federal agency, lump-sum payment of annual leave is not allowed and will be transferred to the new federal agency.

i. Annual leave that will be accrued during the leave year is automatically advanced at the beginning of the leave year. Before approving advanced annual leave, supervisors must be reasonably sure that the technician will earn and repay the advanced annual leave.

6. Sick Leave.

a. All technicians (permanent, indefinite, temporary) accrue 4 hours of sick leave per pay period. Technicians must be employed for the full bi-weekly pay period to be entitled to accrue sick leave for that period. Sick leave accumulates without limit.

b. Sick leave is appropriate when any of the following circumstances cause absence:

- (1) Technician's medical, dental, or optical examination or treatment.
- (2) Technician's incapacitation for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth.
- (3) The technician will jeopardize the health of others by his/her presence on the job because of exposure to a communicable disease (determined by the health authorities having jurisdiction or by a health care provider).
- (4) Technician's care for a family member as a result of physical or mental illness; injury, pregnancy, childbirth; or medical, dental, or optical examination or treatment provided the condition would qualify the technician for sick leave if he/she had the same condition. ("Family Care", see sub-paragraph b.).
- (5) Make arrangements necessitated by the death of a family member or attend the funeral of a family member. ("Bereavement Leave", see subparagraph b.).
- (6) Technicians who must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings, required travel; and any other activities necessary to allow the adoption to proceed.

b. There is a limit on the amount of sick leave an employee can use for family care and bereavement each leave year. The basic limit is 40 hours. An additional 64 hours can be used if the use of that leave does not cause the technician's sick leave balance to fall below 80 hours. Advanced sick leave may not be considered when determining whether a technician has maintained the 80 hour minimum balance.

c. A technician who is caring for a family member with a **serious** illness (requires constant care, hospice care, hospitalization, etc.) may use up to a total of 480 hours of sick leave during a leave year as long as the sick leave balance does not go below 80 hours.

d. Family member is defined as follows:

- (1) Spouse, and parents thereof.
- (2) Children, including adopted children and spouses thereof.
- (3) Parents.
- (4) Brothers and sisters, and spouses thereof.
- (5) Any individual related by blood or affinity whose close association with the technician is the equivalent of a family relationship.

e. A supervisor may require a medical certificate to support use of sick leave for 3 days or more. A medical certificate is a written statement signed by a registered practicing physician or other practitioner certifying the incapacitation, examination, or treatment for the period of disability. For absences of short periods at frequent intervals whenever there is a reason to believe that the sick leave privilege is being abused, the technician will be advised in writing that a medical certificate will be required to support any future use of sick leave regardless of duration.

7. Advanced Sick Leave.

a. Sick leave may be advanced in cases of serious disability or ailments when required by the urgency of the situation. Total advancement of sick leave cannot exceed 240 hours at any one time and is subject to the following conditions:

(1) CAL NG Form 690-4 (Request for Advanced Sick Leave) has been completed and approved by the technician's supervisor. Air Force requests are approved by base command. Army request are submitted to the Directorate for Human Resources for approval.

(2) The request for advanced sick leave must be supported by a medical certificate. A medical certificate is a written statement signed by a registered practicing physician or other practitioner certifying the incapacitation, examination, or treatment, or the period of disability while the patient (or technician's family member) is receiving professional treatment. Under the Federal Employees Family Friendly Leave Act (FFLA), 40 hours of sick leave may be advanced for family care or bereavement.

(3) All available accumulated sick leave is exhausted before advancement (except in the case of family care or bereavement).

(4) Annual leave that would otherwise be forfeited is used.

(5) There is reasonable assurance that the technician will return to duty to earn and repay advanced sick leave.

(6) The number of sick leave hours that may be advanced may never exceed 240 hours at any time. When it is known that the technician is to be retired or where it is anticipated that he/she is to be separated, the total advanced sick leave may not exceed an amount which can be repaid by sick leave accruals prior to the separation. Sick leave advancement is determined by the amount of Federal service as shown below:

<u>TOTAL FEDERAL SERVICE</u>	<u>ADVANCE</u>
90 days or less	No Advance
Less than 1 year	40 hours
1 to 3 years	80 hours
3 to 5 years	160 hours
Over 5 years	240 hours

8. Family and Medical Leave Act of 1993 (FLMA).

a. All technicians are eligible to use leave under the provisions of the Family Medical Leave Act (FMLA) except technicians serving under a temporary appointment with a time limitation of one year or less.

b. Technicians shall be entitled to a total of 12 administrative work weeks of unpaid leave (LWOP) during any 12 month period for one or more of the following reasons:

(1) Birth of child and care of a newborn.

(2) Placement of a child with a technician for adoption or foster care (within one year after placement).

(3) Care of spouse, child, or parent with a serious health condition.

(4) A serious health condition that makes the technician unable to perform the essential functions of his/her position.

c. A technician may elect to substitute paid time off for any or all of the period of leave under FLMA.

d. It is the supervisor's responsibility to:

(1) Determine whether absences are properly chargeable to family or medical leave.

(2) Ensure proper documentation of family and medical leave for reporting purposes.

e. It is the technician's responsibility to:

(1) Request leave as far in advance as possible, particularly if the absence is to be prolonged.

(2) Submit requests involving use of sick or annual leave to the supervisor with any supporting documentation. If the request is for medical reasons, include a certification from the health care provider.

(3) If LWOP is used for FMLA purposes, the technician may elect to continue health benefits (FEHB) coverage. The technician is responsible for the employee portion of the premium.

9. Leave Without Pay (LWOP).

a. Supervisors may approve LWOP for periods not to exceed 364 days. Leave without pay for periods over 30 days must be requested on a SF-52 (Request for Personnel Action).

b. Leave Without Pay for 1 year or more must be approved by The Adjutant General.

c. Technicians who desire to use LWOP-US see CNG TPR 353 for more details.

d. LWOP for military reasons does not impact nor adjust a due date of a Within Grade or Step Increase. LWOP for personal reasons may impact and automatically delay the due date of the increase if the non-pay status exceeds appropriate time limitations.

10. Compensatory Time.

a. In accordance with the Technician Act of 1968 (P.L. 90-486), technicians who work overtime will be compensated with compensatory time in lieu of overtime pay (compensatory time is earned hour for hour). Compensatory time is earned for work in excess of 40 hours in a week and approved in advance by management.

b. Compensatory time may not be accrued for overtime performed while in a training status, such as, service schools, Professional Education Center (PEC) courses, or Office of Personnel Management courses.

c. Compensatory time is authorized for travel when it is within the normal duty hours on off duty days. If your regular duty hours are 0800-1630 hours, Monday through Friday, compensatory time could be earned for travel Saturday, Sunday and Monday if travel is between the normal duty hours 0800-1630. Travel time which commences after normal duty hours on off duty days, is creditable only when the technician is ordered to return to his or her duty station for the purpose of reporting to work the next morning. Travel that is performed within the regularly scheduled duty hours on a holiday or on a day designated as the "in lieu of" holiday is not compensatory time. Holiday hours are included in the basic forty hour workweek and are, therefore, not considered as compensatory time. Holiday premium pay is authorized in these instances.

d. Temporary technicians are entitled to earn compensatory time.

e. If a temporary technician is terminated before compensatory time is used, the compensatory time is forfeited.

f. Compensatory time must be used before annual leave, unless annual leave would be forfeited.

g. Time limits on the use of compensatory time. Compensatory time must be taken within 26 pay periods after the pay period in which it was earned or it will be forfeited. Compensatory time that is forfeited cannot be reinstated.

11. Administrative Leave/Excused Absence.

a. An excused absence is an absence from duty administratively authorized without loss of pay and without charge to leave. The authority to approve excused absence remains with The Adjutant General.

b. Authority is delegated to supervisors to administratively dismiss technicians and/or authorize excused absence without charge to leave for the following reasons:

(1) Blood Donation. Technicians who give blood may be excused from work without charge to leave. Normally, this should not exceed two hours.

(2) Voting. As a general rule, where the polls are not open at least three hours either before or after a technician's regular hours of work, they may be granted an amount of excused leave which will permit them to report for work three hours after the polls open or leave work three hours before the polls close, whichever requires the lesser amount of time off.

(3) Tardiness and brief absences of less than an hour may be excused when reasons appear to be adequate to the supervisor.

(4) For physical examinations when required for continued employment or for military membership.

(5) Attending a conference or convention when it has been determined that the attendance will serve the best interests of the California National Guard.

(6) Participation in funerals. Up to four hours in any one day while performing in State Active Duty status, without pay, as a pallbearer or as a member of a firing squad in a funeral ceremony for members or former members of the Armed Forces may be granted.

(7) Civil Activities. These periods will be limited to no more than a combined total of three workdays during a calendar year. Official civil activities may include but are not limited to inaugurations, dedication of public building and projects, ceremonies for officially invited governmental visitors, and the convening of legislative bodies. Before granting excused absence, it should be determined that such participation is in the best interest of the Federal government (National Guard).

c. Situations not listed above, to include the closing of an activity for a brief period (e.g., weather, loss of utilities, early holiday dismissal) must be coordinated through the Directorate for Human Resources for The Adjutant General's approval.

d. Determination of whether excused absence will be authorized in cases of technicians performing emergency rescue, or Civil Defense duties as part of a National Guard commitment, will be determined by The Adjutant General.

12. Court Leave.

a. Court leave is leave with pay when a technician is called to court as a witness in a non-official capacity on behalf of a private party in connection with any judicial proceeding to which the United States, State or local Government is a party; or to serve on a jury.

b. A request to appear in court should be presented by the technician to his/her immediate supervisor as far in advance of the actual court day as possible. Upon return to duty, the technician will submit a copy of the court summons and court attendance certificate to his/her supervisor. The supervisor will forward this evidence with the Time and Attendance Report.

c. A technician may retain court reimbursement for travel; however, he/she must reimburse the Government for any jury fees received from the court. Fees received that are not authorized to be retained will be remitted to the Defense Finance and Accounting Service (DFAS).

13. Military Leave.

a. Military technicians are authorized by Section 6323(a) of Title 5 U.S.C. 120 hours per fiscal year of military leave.

b. Commingling of annual leave, compensatory time or leave without pay (LWOP) with military leave to cover a period of active duty is allowed.

c. Military leave can only be used for periods of absence from the technician's position, to include travel time to perform military duty.

d. There is no charge of military leave on any holiday or non-workday.

e. Charging of military leave when a technician performs technician and military duty on the same day: In accordance with CG Decision 52-CG-47, technicians who become subject to military control after completing their normal workday are entitled to receive both technician and military pay for that day without charge to leave. If a technician works a partial day and takes annual, compensatory time or LWOP for the remainder of the day, there would be no charge to military leave.

f. Each fiscal year is considered a separate period of military leave use. The use of military leave does not have to begin on 1 October, but may begin at anytime the technician elects. A total of up to 120 hours of military leave may be carried over to the next fiscal year. However, no more than 240 hours may be in the leave account at any time.

g. Under no circumstances will military leave be granted to cover an absence due to state active duty (SAD).

14. Military Leave – Additional 44 Days.

a. Section 6323 (d) (1) of Title 5 U.S.C. authorizes 44 additional workdays of non-paid military leave in a calendar year for military reserve technicians entitling them to the greater of their civilian or military pay, but not both.

b. In order for technicians to use the additional 44 days of military leave the following conditions must be met: The technician must be on active duty without pay under section 12301(b) or 12301(d) of Title 10 (other than active duty declared by the President or Congress) for participation in operations outside the United States, its territories and possessions.

c. The 44 workdays of military leave are available on a calendar year basis, and cannot be carried over to a new calendar year.

d. The 44 days of leave are converted into hours and charged in the same manner as annual leave. There is no charge for non-workdays and holidays. Technicians who enter military status are not entitled to earn compensatory time.

e. A copy of military orders or a statement by the technician's Commanding Officer showing one of the Title 10 authorities (1230(b) or 1230(d) and the period of active duty the technician consented to serve without military pay must accompany the Time and Attendance report with a copy provided to the Directorate for Human Resources.

15. Military Leave – Law Enforcement Leave (22 Days).

a. Section 6323 (b) of Title 5 U.S.C. authorizes 22 additional workdays of non-paid military leave in a calendar year for military reserve technicians entitling them to the greater of their civilian or military pay, but not both.

b. Technicians will not be ordered to State Active Duty when their duties fall within their technician position description. If the technician's services are required after completion of the normal workday or weekends, compensatory time is appropriate. Technicians working on a holiday are entitled to holiday pay.

c. Technicians not performing within their technician position description, who are ordered to State Active Duty (SAD) must elect to be in an annual leave, leave without pay (LWOP), compensatory time, or Law Enforcement Leave (LEL) status. Administrative leave is not authorized.

d. Law Enforcement Leave is authorized without loss or reduction of leave to which otherwise entitled for the purpose of providing aid to enforce the law. This includes situations where the National Guard performs "law enforcement" duties while assisting civil authorities. For example, participation in rescue or protective work in connection with fires, floods, or other natural phenomena. This does not include logistical support of the aforementioned missions. Each National Guard technician serving under a permanent or indefinite status appointment who is a member of the National Guard is entitled to Law Enforcement Leave for not more than 22 workdays in a calendar

year for the reasons described above under full-time military service for the state. Excused absences and other types of leave, i.e., annual and LWOP, may not be granted for performing such duty until the LEL is exhausted. Pay for Law Enforcement Leave may not be less than the pay due a technician at his/her regular civilian pay for the same period of time. Military pay and allowances received (other than travel, transportation or per diem allowance) shall be credited against the technician's civilian pay and, if more than the civilian pay, no civilian pay will be made, nor will a refund of the excess be required. If less than civilian pay, the difference between the military pay and the civilian pay (per technician workday - 8 hours) will be paid. In order to receive pay under this provision, it will be imperative for the technician to retain his/her military Leave and Earnings Statement (LES) to submit with the civilian time and attendance.

16. Absent Without Leave (AWOL).

Technicians who fail to work as scheduled without being granted leave must be considered absent without leave (AWOL) and carried in an AWOL status for the period of absence. Technicians carried as AWOL will not be entitled to pay for the period of absence even though they may have accrued annual leave, sick leave, or earned compensatory time. If at a later date it is determined that the individual was ill or injured, or that extenuating circumstances prevented their presence at work, they may be granted annual leave, compensatory time off, sick leave, or leave without pay. The technician's supervisor determines what leave status (AWOL, LWOP, sick leave, annual leave or compensatory time off) is appropriate.

17. Leave Sharing Program.

a. This program permits Department of Defense technicians to donate annual leave for use by other Department of Defense employees for a medical or personal emergency. Sick leave can not be donated.

b. Definitions:

(1) *Leave Donor* – a technician whose voluntary written request for transfer of annual leave to the annual leave account of a leave recipient.

(2) *Leave Recipient* – a current technician for whom the Directorate for Human Resources has approved an application to receive annual leave from the annual leave accounts of leave donors.

(3) *Personal Emergency* – a medical or family emergency or other hardship situation that is likely to require a technician's absence from duty for a prolonged period of time and will result in a substantial loss of income to the technician because of unavailability of paid leave.

(4) *Family Member* – any individual related by blood or affinity whose close association with the technician is the equivalent of an immediate family relationship.

(5) *Approving Official* – The Directorate for Human Resources will act as the approving/disapproving official for receipt of transferred annual leave.

c. Leave Donation:

(1) A technician may submit a 630-A (Request to Donate Annual Leave) requesting a specified number of hours of his/her accrued annual leave be transferred from his/her account to the account of a specified leave recipient. The regulations allow the transfer of leave to any employee with the exception of the donor's immediate supervisor. When completed, this form is forwarded to the Directorate for Human Resources.

(2) In any one leave year, a leave donor may donate no more than a total of one half the amount of annual leave he/she would be entitled to accrue during the leave year in which the donation is made:

(a) 4-hour leave earning category = maximum donation of 52 hours.

(b) 6-hour leave earning category = maximum donation of 80 hours.

(c) 8-hour leave earning category = maximum donation of 104 hours.

d. Leave Recipient:

(1) May make written application to become a leave recipient if he/she expects to be absent from duty, in an unpaid leave status, for at least ten (10) days due to a medical emergency.

(2) Leave Accrual - Annual or sick leave shall accrue to the credit of the technician at the same rate as if the technician were in a paid leave status. However, there is a maximum amount of 40 hours that may be accrued by an technician while in a transferred leave status. Any annual or sick leave accrued under this section shall be credited the first pay period after the medical emergency terminates. If the technician's medical emergency terminates due to separation from Federal service, no leave shall be credited.

e. Initiating a Leave Sharing Request:

(1) A technician who has been affected by a medical or personal emergency may make written application, utilizing Application for Receipt of Donated Leave, to become a leave recipient. To ensure timely processing, the application form must be filled out completely. Letters of justification to support the application may be attached to the Application for Receipt of Donated Leave, but are not mandatory. Incomplete application forms will be returned for additional information.

(2) Upon receipt of an application to receive transferred annual leave, the first level supervisor will verify and validate the technician information in the application. The application must be returned to the applicant if corrections or additional information is required. Once the application receives supervisory endorsement, it is forwarded to the Directorate for Human Resources, ATTN: CAJS-CS, within five (5) workdays from the date of receipt of the application.

f. Application Approval/Disapproval For Leave Recipient:

(1) The Directorate for Human Resources will review the leave transfer request and approve/disapprove it based on the nature of the request and support documentation.

(2) If the request is disapproved, the technician will be notified within 10 working days of the Directorate of Human Resources' receipt of the application. The applicant will be provided direct written notice of disapproval and the reasons warranting such action. Copies of the disapproval will be furnished to the first line supervisor.

(3) If the request is approved, a Technician and Active Guard/Reserve Instruction (TAAI) will be published requesting donated leave for the approved recipient.

(4) If the request is approved, and the technician desires statewide announcement, Directorate for Human Resources will publish a Technician and AGR Instruction (TAAI) announcing the technician's need for leave donations.

g. Application to Donate Leave:

(1) A technician may submit to his/her first level supervisor, or leave approving official, a voluntary, irrevocable request to transfer a specific number of whole hours of accrued annual leave to the annual leave account of a specified approved leave recipient. The request to donate will be accomplished by utilizing the Request to Donate Leave Form. These forms may be requested from a supervisor and when submitted, must be complete. Failure to provide all of the requested information may cause untimely delays.

(2) Upon receipt of the Request to Donate Leave Form, the supervisor will review for completeness, add additional data as required, and then forward the form to the Directorate for Human Resources.

(3) The approval and use of transferred annual leave by an approved leave recipient shall be subject to all the conditions and requirements imposed by Chapter 63 of Title 5, U.S.C., Part 630. Upon approval, transferred annual leave received by an approved leave recipient may be accumulated without regard to the limitation imposed by 5 U.S.C. 6304 (a) which is normally 240 hours.

h. Termination of Medical Emergency:

(1) Leave recipient's employment is terminated.

(2) End of the biweekly pay period in which the leave recipient is no longer affected by a medical emergency.

(3) End of the biweekly pay period in which the Directorate for Human Resources receives notice from the Office of Personnel Management (OPM) indicating an approved application for Disability Retirement.

(4) When determined that the medical emergency affecting the leave recipient terminates, the supervisor completes the Termination of Medical Emergency form. When application for termination is completed, it will be forwarded to the Directorate for Human Resources, ATTN: CAJS-HR-CS.

i. Restoration of Donated Leave: Any transferred annual leave remaining to the credit of the leave recipient will be restored to the leave donors when the personal emergency terminates. When the personal emergency results in a disability retirement for the technician, the personal emergency is considered terminated when the Directorate for Human Resources receives notification that the disability retirement is approved. The restoration of leave will be administered on a pro rated basis as follows:

(1) Number of hours of unused transferred annual leave divided by total hours of annual leave transferred to the leave recipient.

(2) Result of (1) above times number of hours of leave transferred by the leave donor eligible for restoration and rounded down to the nearest whole hour.

(3) If the total number of eligible leave donors exceeds the total number of hours to be restored, no unused transferred leave shall be restored. In no case shall the amount of leave restored to a donor exceed the amount the donor transferred to the leave recipient.

j. Prohibition of Coercion:

(1) An individual may not directly or indirectly intimidate, threaten or coerce any other individual for the purpose of interfering with any right an employee may have to donate, not to donate, receive, or use annual leave under this chapter.

(2) Adequate publicity will be provided by management officials when an application to receive transferred annual leave is approved. Therefore, the leave recipient is discouraged from expressing any personal solicitations to procure transferred annual leave from other employees.

(3) For the purposes of this chapter, the terms “intimidate, threaten, or coerce” include prohibition to promise to confer any benefit associated with employment (such as appointment, promotion, compensation, hours of work, or assignment of duties) or effecting or threatening reprisal for not donating leave.

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